



Indiana Supreme Court
Division of State Court Administration

Case Types, Court Records and Unauthorized Fees

State Board of Accounts Conference for the Clerks of the Circuit Courts
Michigan City - June 8, 2011

Table of Contents

- Case Types
- Required Court Records: Trial Rule 77
- Integrity of Court Records: Administrative Rule 10
- Access to Court Records & Confidential Records: Administrative Rule 9 and Trial Rule 5(G)
- Maintaining Court Records: Imaging, Microfilm & Retention
- Fees Not Authorized by Statute or Court Rule
- New Legislation
SEA 582 Mortgage Foreclosure Conferences; HEA 1211 Non-Disclosure of Arrest and Conviction Information; HEA 1548 Recognition of Foreign Country Money Judgments
- Resources

Administrative Rule 8 (B)(3) Case Types

- Part of Uniform Case Numbering System
- Collection of statistics on the type of business conducted by the courts
- Application of records retention schedules
- Application of weighted caseload measurement system
- Assists in recognition of proper court costs

Case Type Resources

- www.courts.in.gov/admin/courtmgmt/forms.html
- QCSR Application Guide
- Case Type Chart
 - serves as a quick reference
 - allows the Division to update with new proceedings between revisions to the QCSR Guide

Basic Framework for Court Records: Trial Rule 77

- (A) Required Records
- (B) Chronological Case Summary
- (C) Case File
- (D) Record of Judgments and Orders
- (E) Indexes

Structure of Trial Rule 77 continued

- (F) Pleadings and Papers: Where Filed and Entered
- (G) Case File Status
- (H) Statistics
- (I) Replacing Lost Records
- (J) Method of Record keeping
- (K) Electronic Posting of Court Records

T.R. 77(A) Required Records

The clerk of the circuit court shall maintain the records for all circuit, superior, county, probate and municipal courts in the county

- (1) Any record required by statute or by a duly promulgated rule of any state agency, including:
 - Lis Pendens record
 - Record of transcripts and foreign judgments
 - Judgment Docket
 - Execution Docket
 - Records specified under the Probate Code
 - Records specified by the State Board of Accounts as to the fiscal matters relating to the court and clerk.

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T.R. 77 (A) continued

- (2) The clerk of the circuit court shall also maintain the following records:
 - Chronological Case Summary
 - Case File
 - Record of Judgments and Orders
 - Indexes

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T.R. 77(B) Chronological Case Summary

- The clerk shall maintain a sequential record of the judicial events in each case.
- The date of every notation in the CCS should be the date that the notation is made, regardless of the date the judicial event occurred.

- ## T.R. 77(B) Chronological Case Summary
- The clerk shall maintain a sequential record of the judicial events in each case.
 - The date of every notation in the CCS should be the date that the notation is made, regardless of the date the judicial event occurred.

Purpose of the CCS

- The CCS is the court's case management tool.
- Its purpose is to provide a brief notation of the procedural events that occur in the case and to note the case status as either pending or decided.
- It is an official court record.
- It must be maintained permanently (except for Infraction and ordinance violation cases).

CCS Required Elements

- The title of the proceeding, the assigned case number, the names, addresses, telephone and attorney numbers of all attorneys involved, or the fact that a party appears pro se with address & phone #, and the assessment of fees.
- Note the entry of orders & judgments in the RJO, the entry of judgments in the Judgment Docket and the file status (pending/decided).

Basic Principles for the CCS

- CCS entries should be made on the day of the event (e.g., motion filed, order entered) that is recorded.
- chronological means NO BACKDATING
- CCS entry should not be modified once made.
- To make addition or correction to a CCS entry, make a new entry, referring to the entry you are modifying.

Summary means

- The CCS is not intended to be a word-for-word record of each order entered or motion or document filed in a case. The entries should be brief but provide enough information to know what happened.

T.R. 77(C) Case File

- In each case assigned a case number, the clerk is to maintain a file containing a copy of any order, entry or judgment in the case, and
- The original of all other documents related to the case.
- If the court does not maintain a separate evidence file, documents into evidence, including depositions, go in the case file.

T.R. 77(D) Record of Judgments and Orders (RJO)

- This is a permanent official record for all case types.
- In addition to judgments of the court, Trial Rule 77(D) specifies several specific documents that are to be included in the RJO.
- The clerk may maintain a separate RJO as required for the functional management of the court's business.
- Unless the RJO is maintained electronically, there must be a separate RJO for confidential matters.

Documents Required to be Included in the RJO

- Orders and opinions of appellate courts relating to a case heard by the trial court
- Local Court Rules under Trial Rule 81
- Certification of election of the regular judge of the court

RJO continued

- Orders appointing:
 - special judge
 - judge pro tem
 - temporary judge
 - special prosecutor

RJO continued

- Oath and acceptance of
 - Any judge serving in the court
 - A special prosecutor
- "Designated Orders of the court"

What's a Designated Order?

- One that reflects some substantive content
 - a judicial action or opinion that contributes to the conclusion of the case
- All orders concluding a case
- Orders restricting a person's freedom

Designated Orders

- The judge has final say whether to designate an order to be included in the RJO but routine orders, such as granting a continuance or other procedural orders should not go in it.

T.R. 77(E) Indexes

- The clerk is to maintain indexes of all actions and proceedings in the circuit, superior, probate (and county and municipal courts) in the county.
- Alphabetical format, noting the names of all parties, the date when the party became part of the proceeding and the case number.

T.R. 77(F) Pleadings and papers: Where filed and entered

- All pleadings and papers are to be filed with the clerk of the circuit court in accordance with Trial Rule 5.
- Trial Rule 5 (F) defines the methods of filing.
- Trial Rule 5 (G) sets forth the procedures for filing documents containing confidential information.

T.R. 77 (G) Case File Status

- Maintain files in either pending or decided status.
- A decided case is one in which no further proceedings remain to be conducted as evidenced by the final judgment or other order of the court.
- When decided, a case is assigned a disposition date for purposes of applying the retention schedule under Administrative Rule 7.
- If the case is re-docketed, the case is returned to the pending cases.

T.R. 77(H) Statistics

- The clerk of the circuit court shall establish procedures to determine a statistical count of all actions filed, decided, and reinstated as required by the division of state court administration.

Caveat

- Under TR 77(G), when a case has been decided, it is assigned a disposition date to trigger the retention schedule set forth in Administrative Rule 7. If a case is re-docketed, the disposition date is deleted from the file and a new disposition date is assigned when the case returns to a decided status.
- However, for statistical reporting purposes, the case is “decided” only once, the date of the first final disposition. Re-docketing of a case does not constitute a new filing, and the closing of a re-docketed case does not constitute a new disposition for purposes of statistical reporting in the Quarterly Case Status Reports.

T.R. 77(l) Replacing Lost Records

- If an original pleading or paper filed with the clerk of the circuit court cannot be located within the recordkeeping system set forth under this rule, the court may authorize a copy of such record to be filed and used as the original.

T.R. 77 (j) Method of Record Keeping

- Any suitable media - but must be approved by the Division of State Court Administration
- Records that must be maintained permanently must, if maintained electronically, be kept so that a hard copy can be generated at any time.

Division of State Court Administration Approval Required

Electronic Case Management Systems under the Supreme Court Policy Statement of May 13, 2002

4. Any county that elects, at its expense, to upgrade substantially an existing or acquire a new case management system other than the statewide case management system may do so only with the written permission of the Division. In general, the Supreme Court authorizes the Division to approve such an upgrade or acquisition if the Division is satisfied that the system being upgraded or acquired can be connected with the statewide case management system in a way that permits the secure sharing of information in both directions to a substantially similar extent as information is shared between counties within the statewide case management system. A condition of approval will be that an appropriate interface exists or will be provided at the requesting county's expense between the system being upgraded or acquired and the statewide case management system.

T.R. 77(K) Electronic Posting of Court Records

- The clerk, with the consent of the majority of the judges in the courts of record, may make court records available to the public over the Internet.
- However, the records to be posted, the specific information to be included, its format, pricing structure and method of dissemination must be approved by the Division of State Court Administration.
 - Approval is automatic for specified Odyssey records; no further approval is required.

Integrity and Security of Court Records: Administrative Rule 10

- (A) Court Responsibilities.
- (B) Clerk Responsibilities.
- (C) Prohibited Practices.

Administrative Rule 10 (B): Clerk Responsibilities

- Each Clerk is responsible for the maintenance of court records in a manner consistent with the directives of the Supreme Court of Indiana, judge of court, and other pertinent authority. In all instances, the Clerk of the court must safeguard the integrity and security of all court records in his or her custody and diligently guard against any prohibited practice.

Administrative Rule 10 (C): Prohibited Practices

- Mutilation, vandalism or theft;
- False entry, unauthorized alterations, additions, or deletions or replacement of item or data elements;
- Alienation or any unauthorized release of court records;
- Use of non-reversible lamination; and
- Use of unauthorized repair procedures on records deemed permanent under Administrative Rule 7.

Access to Court Records Administrative Rule 9

Pursuant to inherent authority of the Indiana Supreme Court and pursuant to Ind. Code § 5-14-3-4(a)(8), this rule governs public access to, and confidentiality of, court records. Except as otherwise provided by this rule, access to court records shall be governed by the Indiana Public Records Act.

- Public Access
- Records Excluded from Public Access
- Bulk Distribution

The rule applies to all court records, but courts and clerks need not redact or restrict information that was public in case records and administrative records created before January 1, 2005.

So, What's a Court Record ?

- Any document, information, data, or other item created, collected, received, or maintained by a court, court agency or clerk of court
- is a Case Record if relates to a particular case, and
- is an Administrative Record if it pertains to the administration of the judicial branch and is not related to a particular case.

Structure of Administrative Rule 9

- (A) Scope and Purposes
- (B) Who Has Access Under This Rule
 - Enhanced access for court, clerk staff, etc.
- (C) Definitions
- (D) General Access Rule (accessible except when it's not)

- (E) Remote Access and Fees
 - Courts offering remote access must comply with TR 77(K)
 - Procedure for adopting fee for electronic access to court records
- (F) Bulk Distribution and Compiled Information
 - Apply through the Division of State Court Administration; but court with jurisdiction over the records has discretion to provide; may charge fair market value.
 - If Confidential Records or records under the jurisdiction of multiple courts, only the Supreme Court may approve

- (G) Court Records Excluded from Public Access

- Information excluded from public access by federal law
- Information declared confidential by Indiana statute and court rule [lists numerous specific records]
- what happens when confidential information is offered in court - (I.1), (I.2), (I.3); T.R. 43(E)
- what happens on appeal (4), Appellate R. 9(J)

- (H) Prohibiting Public Access to Information in Court Record

- Verified request; notice
- May deny without hearing; if not initially denied, must post notice of hearing
- rule does not limit authority of a court to seal court records under Ind. Code § 5-14-3-5.5
- only Supreme Court may issue order prohibiting public access if the records are in bulk or compiled records or records under jurisdiction of multiple courts

- (I) Obtaining Access to Information Excluded from Public Access

- verified petition; must provide notice
- may deny without hearing; if not initially denied, must post public notice of hearing
- must demonstrate certain factors
- only Supreme Court may order access if the confidential records are in bulk or compiled records or records under jurisdiction of multiple courts

- (J) When Court Records May Be Accessed
 - in the courthouse during regular business hours
 - if available electronically by remote access, then during the hours established by the court

- (K) Contracts with Vendors Providing Information Technology Services Regarding Court Records
 - must include specified terms and comply with AR 9 policies
- (L) Immunity for Disclosure of Protected Information
 - A court, court agency, or clerk of court employee or an employee or officer of a contractor or subcontractor who unintentionally and unknowingly discloses confidential or erroneous information is immune from liability for such a disclosure.

AR Confidential: Administrative Rule 9 (G)

Trial Rule 3.1(D)
Trial Rule 5(G)
Trial Rule 43 (E)
Trial Rule 58 (C)

Criminal Rule 1.1
Small Claims Rule 2 (E)
Trial De Novo Rule 4
Post Conviction Rule 1, Section 3
Admin. Rule 16 Appendix

Appellate Rule 9 J
Appellate Rule 15 C (4)(i)
Appellate Rule 53 H
Original Actions Rule 3 (J)
Tax Court Rule 3 (G)

Documents and information excluded from public access pursuant to Administrative Rule 9(G)(1) shall be filed in accordance with Trial Rule 5(G).

This exact language is found in each of the following rules:

Criminal Rule 1.1
Small Claims Rule 2
Trial De Novo Rule 4
Tax Court Rule 3
Original Action Rule 3
Post Conviction Rule 1

Similar language is found in Trial Rule 3.1, Trial Rule 58 and Appellate Rule 9 J (Appellate Rule 9 J is broader in scope).

Trial Rule 5 (G) is the “Green Paper” rule.

Trial Rule 5(G) applies not only to documents filed with the court, but also to judgments and orders issued by the court - Trial Rule 58 (C)

Trial Rule 5(G)

- Whole Documents that are excluded from public access are to be filed on light green paper or have a light green coversheet attached, marked “Not for Public Access” or “Confidential.”

Trial Rule 5(G) continued

- When only part of the document contains information excluded from public access under A.R. 9(G)(I), the information is to be omitted or redacted from the filed document and set out on a separate accompanying document on light green paper, marked "Not for Public Access" or "Confidential" and designating the case caption and number and document and the location within the document to which the redacted information pertains.

Trial Rule 5(G) continued

- For documents filed in electronic format, the trial court, by local rule, may provide for compliance with T.R. 5(G) in a way that separates and protects access to confidential information.
- T.R. 5(G) does not apply to a record sealed by the court or to records, documents, or information filed in cases to which public access is prohibited under Administrative Rule 9(G).

Administrative Rule 6 Court Records Media Storage Standards

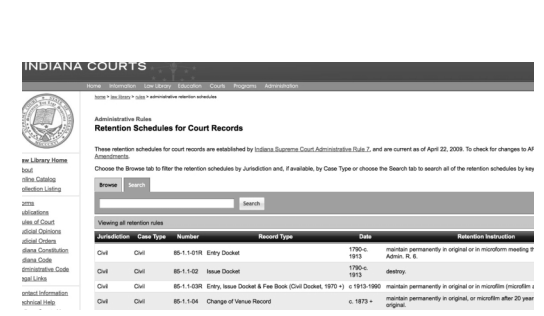
- This rule sets forth technical standards for the use of microfilm for preservation of court records and for the use of digital imaging technology for the storage and preservation of court records.
- Before a court, clerk or court agency installs a digital imaging system, the system specifications must be submitted, in writing, to the Division of State Court Administration for the Division to determine compliance with Trial Rule 77(J).

Administrative Rule 6

- Under A.R. 6(l), a record generated from a digital image produced in accord with the rule is the official court record, regardless of whether an original paper document exists, and the same is true for a microfilm record.
- Paper court records that have been preserved in accordance with the rule may be destroyed but only after the Clerk files a "Destruction Certificate" with the Division, and the Division issues a written authorization for the destruction.

Administrative Rule 7 Judicial Retention Schedules

- Administrative Rule 7 applies only to judicial records.
- Non-Judicial records are covered by the Indiana Commission on Public Records and the county commission on public records.



INDIANA COURTS

Home > Services > Judicial > Administrative > Retention Schedules

Administrative Rules
Retention Schedules for Court Records

These retention schedules for court records are established by Indiana Supreme Court Administrative Rule 7, and are current as of April 22, 2008. To check for changes to AR 7, click on the link below.

Choose the Browse tab to filter the retention schedules by Jurisdiction and, if available, by Case Type or choose the Search tab to search all of the retention schedules by key words.

Viewing all retention rules

Jurisdiction	Case Type	Number	Record Type	Date	Retention Instruction
Civil	Civil	85-1-1-018	Entry Docket	1906- 1913	maintain permanently in original or in microform meeting R Admin. 15, 6
Civil	Civil	85-1-1-02	Issue Docket	1906- 1913	destroy
Civil	Civil	85-1-1-038	Entry, Issue Docket & Fee Book (Civil Docket, 1870-*)	c. 1913-1990	maintain permanently in original or in microform (preservation)
Civil	Civil	85-1-1-04	Change of Venue Record	c. 1873 *	maintain permanently in original, or microfilm after 20 year original

- Searchable Retention Schedule Online
<https://mycourts.in.gov/ar7/>

Fees Not Authorized By Statute or Supreme Court Rule

Joint Letter from the State Board of Accounts and the Indiana
Supreme Court Division of State Court Administration
to Judges and Clerks
September 8, 2008

Fees that are not authorized by statute or Supreme Court
rule should not be assessed or collected.

Fees Authorized by Supreme Court Rules

- **Administrative Rule 9(E): Electronic system fee**
 - Upon the request and at an amount approved by a majority of judges of courts of record of the county County Board of Commissioners may adopt an electronic system fee to be charged in conjunction with electronic access to court records.
 - Fee must be approved by the Division of State Court Administration
 - Method of collection, deposit, distribution and accounting must be approved by the Indiana State Board of Accounts.

Fees Authorized by Supreme Court Rules

- **Administrative Rule 12: Electronic Facsimile Transmission Fee**
- Administrative Rule 12 permits a majority of judges of courts of record to adopt a local rule authorizing facsimile filing.
- Upon request and at an amount approved by a majority of judges of courts of record in the county, the County Board of Commissioners may adopt an electronic facsimile transmission fee not to exceed ten dollar (\$10.00) per transmission.

Fees Authorized by Supreme Court Rules

- Administrative Rule 15 requires all courts of record to adopt a local rule governing court reporter services.
 - Per page fees are permitted
 - The Local Rule must be approved by the Indiana Supreme Court

Fees Authorized by Supreme Court Rules

- Trial Rule 63 - Judge Pro Tem Fee
- Trial Rule 79 - Special Judge Fee
- Criminal Rule 2.3 - Transfer of Probation Supervision Fee
- Criminal Rule 13 - Special Judge Fee

New Legislation of Interest

- SEA 582 -Mortgage Foreclosure Conferences
- HEA 1211 - Non-Disclosure of Criminal Arrest and Conviction Information
- HEA 1548 - Recognition of Foreign Country Money Judgments

SEA 582 Mortgage Foreclosure Settlement Conference

- IC 32-30-10.5-8 requires the creditor to provide notice to the debtor of the debtor's right to participate in a settlement conference.
 - After June 30, 2011, the notice must be included on the first page of the summons that is served on the debtor in conjunction with the complaint.
 - After June 30, 2011, the creditor must include with the complaint: a list containing all telephone numbers and e-mail addresses the creditor has on file for the debtor, and any mailing address for the debtor. This information is confidential and must be filed in accord with T.R. 5(G).

SEA 582 Mortgage Foreclosure Settlement Conference

- **Debtor's Loss Mitigation Package**
 - For actions filed after June 30, 2011, the debtor must submit certain information such as tax returns and bank statements to the court and to the creditor's attorney at least 30 days before the settlement conference.
 - This information is confidential and must be filed in accord with T.R. 5(G).

SEA 582 Mortgage Foreclosure Settlement Conference

- The new Sample Summons and the Settlement Conference Loss Mitigation Package Checklist are now available and may be downloaded from the Indiana Courts website at www.courts.in.gov/admin/mortgage/index.html

- **HEA 1211 Non-Disclosure of Criminal Arrest and Conviction Information**

- Adds a new section 5.5 to IC 35-38-5, the Expungement chapter, and
- Adds new chapter, IC 35-38-8.

New IC 35-38-5-5.5

effective July 1, 2011

- Permits a person charged with a crime who is:
 - not prosecuted or whose charges are dismissed;
 - acquitted of all criminal charges; or
 - convicted and the conviction is subsequently vacated;

to petition a court to restrict disclosure of the records related to the arrest to a noncriminal justice organization or an individual.

IC 35-38-8 Restricted Access to Conviction Records

effective July 1, 2011

- This chapter applies only to a person
 - convicted of a misdemeanor or a Class D felony that did not result in injury to a person, or
 - adjudicated a delinquent child for an offense that if committed by an adult would be a misdemeanor or Class D felony that did not result in injury to a person.

**IC 35-38-8 Restricted Access to
Conviction Records**

- This law does not apply to a sex or violent offender unless the offender's status is solely due to a conviction for sexual misconduct with a minor and the offender proves that the defense described in IC 35-42-4-9(e) applies to him.

**IC 35-38-8 Restricted Access to
Conviction Records**

- Eight (8) years after the person completes his sentence and satisfies any other obligations imposed as part of the sentence, he may petition a sentencing court to order the state police to restrict access to the records concerning the arrest and involvement in criminal or juvenile court proceedings.

**IC 35-38-8 Restricted Access to
Conviction Records**

- If the court grants the petition, the court shall order the department of correction and each law enforcement agency and other person who incarcerated, provided treatment for, or provided other services for the person under court order and any state, regional or local central repository for criminal history information to prohibit release of the person's records or information relating to the misdemeanor, Class D felony or juvenile adjudication to a noncriminal justice agency without a court order.

IC 35-38-8 Restricted Access to Conviction Records continued

- If a court orders a person's records to be restricted under this chapter, the person may legally state on an application for employment or any other document that the person has not been arrested for or convicted of the felony or misdemeanor recorded in the restricted records.

HEA 1548 Recognition of Foreign Country Money Judgments

effective July 1, 2011

- Adds a new chapter to Indiana Code: I.C. 34-54-12
- Establishes statute of limitation for bringing action.

Uniform Act for the Recognition of Foreign Country Money Judgments

I.C. 34-54-12 effective July 1, 2011

- Creates new civil action to recognize foreign country money judgment I.C. 34-54-12-5
- Applies to a judgment to the extent that it grants or denies recovery of a sum of money; and
- under the law of the foreign country where rendered, is final, conclusive and enforceable.

Uniform Act for the Recognition of
Foreign Country Money Judgments
I.C. 34-54-12 effective July 1, 2011

- The Act does Not apply to the extent that the judgment is a judgment for taxes, a fine or other penalty or a judgment for divorce, support, maintenance or other judgment rendered in connection with domestic relations.

Useful Resources

- Trial Court Administrative Manual for Judges and Clerks
www.courts.IN.gov/admin/pubs/trial-court/index.html
- Public Access to Court Records Handbook
www.courts.IN.gov/admin/pubs/access.html
- Trial Rule 77 Quick Guide
www.courts.IN.gov/admin/pubs/tr77.html
- QCSR Application Guide & Case Type Chart
www.courts.in.gov/admin/courtmgmt/forms/current.html
- Retention Schedule Online <https://mycourts.in.gov/ar7/>
- Indiana Rules of Court www.courts.in.gov/rules/

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